

**BANNING MICKLOW & BULL LLP**

Edward M. Bull III, (SBN 141966)  
 One Market, Stueart Tower, Suite 1440  
 San Francisco, CA 94105  
 Telephone No.: (415) 399-9191  
 Facsimile No.: (415) 399-9192  
 Attorneys for Plaintiff  
 ROBERT GOLDSWORTHY

**COX, WOOTTON, GRIFFIN,  
HANSEN & POULOS, LLP**

Richard C. Wootton (SBN 88390)  
 Galin G. Luk (SBN 199728)  
 190 The Embarcadero  
 San Francisco, California 94105  
 Telephone No.: (415) 438-4600  
 Facsimile No.: (415) 438-4601  
 Attorneys for Defendant,  
 TUTOR-SALIBA/KOCH/TIDEWATER JV

**STERLING & CLACK**

Neil Olson (SBN 120946)  
 101 Howard St., Suite 400  
 San Francisco, California 94105  
 Telephone No.: (415) 543-5300  
 Facsimile No.: (415) 543-3335  
 Attorneys for Defendant,  
 WESTAR MARINE SERVICES  
 AND CROSS LINK, INC.

## UNITED STATES DISTRICT COURT

## NORTHERN DISTRICT OF CALIFORNIA

ROBERT GOLDSWORTHY  
 Plaintiff,

v.

Tudor-Saliba Corporation, Koch Construction  
 Company, Inc. and Tidewater Marine  
 Western, Inc., all doing business as Tudor-  
 Saliba/Koch/Tidewater, a joint venture  
 company, Westar Marine Services, Cross  
 Link, Inc., and DOES 1-10, *in personam*, and  
 M/V PROWLER & M/V ROVER, their  
 engines, tackle, apparel, furniture, etc., *in*  
*rem*, \_\_\_\_\_

) Case No.: C 06-4025MHP

) **STIPULATION AND [PROPOSED]**  
 ) **ORDER BETWEEN TUTOR-**  
 ) **SALIBA/KOCH/TIDEWATER, JV,**  
 ) **WESTAR MARINE SERVICES,**  
 ) **CROSS LINK, INC. AND**  
 ) **PLAINTIFF CONCERNING THE**  
 ) **NAMING OF THE JOINT**  
 ) **VENTURE IN THE COMPLAINT**  
 ) **AND DISMISSAL OF JOINT**  
 ) **VENTURE MEMBERS**

COX, WOOTTON,  
 GRIFFIN, HANSEN  
 & POULOS, LLP

190 THE EMBARCADERO  
 SAN FRANCISCO, CA  
 94105  
 TEL 415-438-4600  
 FAX 415-438-4601

DMU/Goldsworthy/2416

**STIPULATION**

- (1) Whereas, on June 29, 2006 the plaintiff Robert Goldsworthy ("Plaintiff") filed a "Seaman's Complaint for Personal Injuries" in the United States District Court, Northern District of California, case number C06-4025 MPH ("Complaint").
- (2) The Plaintiff named as defendants "Tudor-Saliba Corporation, Koch Construction Company, Inc. and Tidewater Marine Western, Inc., all doing business as Tudor-Saliba/Koch/Tidewater, a joint venture company" ("Joint Venture") and Westar Marine Services, Cross Link, Inc., DOES 1-10 *in personam* and M/V Prowler and M/V Rover, their engines, tackle, apparel, furniture, etc., *in rem*.
- (3) However, the Plaintiff incorrectly identified the Joint Venture and the entities that comprised the Joint Venture. The Joint Venture is named Tutor-Saliba/Koch/Tidewater JV. The Joint Venture consists of Tutor-Saliba Corporation, Koch Skanska, Inc., and Tidewater Construction Corporation.
- (4) Whereas, Plaintiff wishes to file an amended complaint properly identifying (factually) the proper Tutor-Saliba/Koch/Tidewater JV members, naming only the Joint Venture as a defendant and deleting any reference to the incorrectly identified parties.
- (5) Whereas, Plaintiff's First Amended Complaint e-filed at 9:25 am on August 1, 2006 (which was intended to address these issues) was inadvertently e-

COX, WOOTTON,  
GRIFFIN, HANSEN  
& POULOS, LLP

190 THE EMBARCADERO  
SAN FRANCISCO, CA  
94103  
TEL 415-438-4600  
FAX 415-438-4601

DMU Goldsworthy/2416

1 filed after the Answer of Defendant Westar was e-filed at 5:40 p.m. on July  
 2 31, 2006, and thus was ineffective and should be stricken as having been  
 3 filed without leave of Court.

4 (6) Whereas Plaintiff, Tutor-Saliba/Koch/Tidewater JV and Westar are  
 5 agreeable to resolving the issues related to Tutor-Saliba/Koch/Tidewater JV  
 6 by the filing of the Proposed Second Amended Complaint filed herewith.

7 (7) Whereas Tutor-Saliba/Koch/Tidewater JV will need some additional time to  
 8 file its answer to the Second Amended Complaint and to prepare its initial  
 9 disclosures."  
 10

11 IT IS HEREBY STIPULATED by and between the parties to this action, and the  
 12 parties respectfully request, through their respective counsel, that the Court order, that:

- 13 (1) Plaintiff may file his Proposed Second Amended Complaint filed herewith.  
 14 (2) Tutor-Saliba/Koch/Tidewater JV will file its answer within twenty (20) days  
 15 of the signing of the following proposed order and the filing of the Second  
 16 Amended Complaint. The Answer previously filed by Westar on July 31,  
 17 2006 will be deemed an answer to the Second Amended Complaint (all  
 18 allegations as to Westar remaining unchanged)."  
 19 (3) The Plaintiff, at his sole discretion, will be entitled to further amend the  
 20 Complaint naming Tutor-Saliba Corporation, Koch Skanska, Inc., and  
 21 Tidewater Construction Corporation as defendants should he conclude in  
 22 good faith that the evidence warrants his including said individual members  
 23 as a party to the action. Any such amendment shall be made, filed and  
 24 served at least thirty-five (35) days prior to the close of discovery as set by  
 25 the Court, may be personally served on defense counsel and will require a  
 26 responsive pleading to be filed by the individual members within two weeks  
 27 of said service.  
 28

COX, WOOTTON,  
 GRIFFIN, HANSEN  
 & POULOS, LLP

190 THE EMBARCADERO  
 SAN FRANCISCO, CA  
 94105  
 TEL 415-438-4600  
 FAX 415-438-4601

BMU:Goldworthy2416

- (4) The statute of limitations to any action for negligence, or similar claim, that the Plaintiff may assert against Tutor-Saliba Corporation, Koch Skanska, Inc., and Tidewater Construction Corporation, as individual members or partners of the Joint Venture for the incident described in the Complaint is hereby tolled. Unless released by a Settlement Agreement or Release, the statute of limitations as to the individual members or partners of the Joint Venture will begin to run upon the earliest of: 1) an order from the court, pursuant to motion or otherwise, dismissing Tutor-Saliba/Koch/Tidewater JV as a defendant to the Complaint; 2) the Plaintiff's dismissal, with or without prejudice, of Tutor-Saliba/Koch/Tidewater JV; 3) the jury, judge or factfinder rendering a verdict as to all then existing causes of action filed by the Plaintiff and against Tutor-Saliba/Koch/Tidewater JV whether in a court of law or at arbitration.
- (5) The parties further stipulate and request that the Court order that the current preliminary dates relating to: a) **ADR certification** currently scheduled to be completed by October 2, 2006; b) **Initial disclosure** currently scheduled to be completed by October 16, 2006; and c) the **Case Management Conference** currently scheduled for October 23, 2006 each be continued for twenty one (21) days. The parties stipulate and request that the Court order the following preliminary dates:
- ADR certification:** To be completed by October 23, 2006
- Initial disclosure:** To be completed by November 6, 2006
- CMC:** November 13, 2006, 4:00 p.m., Courtroom 15, 18<sup>th</sup> Floor, 450 Golden Gate Ave., San Francisco, CA.

COX, WOOTTON,  
GRIFFIN, HANSEN  
& POULOS, LLP

100 THE EMBARCADERO  
SAN FRANCISCO, CA  
94105  
TEL 415-438-4600  
FAX 415-438-4601

BMJ.Goldworthy/2416

OCT-02-2006 16:04 BANNING MICKLOW  
FROM COA, WOOTTON, GRIFFIN, HANSEN & POULOS, LLP

Dated: October 2, 2006

BANNING, MICKLOW, BULL & LOPEZ  
Attorneys for Plaintiff  
Robert Goldsworthy

By   
Edward M. Bull, III

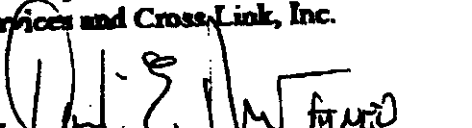
Dated: October 2, 2006

COX, WOOTTON, GRIFFIN,  
HANSEN & POULOS, LLP  
Attorneys for Defendant Tutor-  
Saliba/Koch/Tidewater JV, Tutor-Saliba  
Corporation, Koch Skanska, Inc.; and  
Tidewater Construction Corporation

By  (Cuba Lee Jr.)  
Richard C. Wootton

Dated: October 2, 2006

STERLING AND CLACK  
Attorneys for Defendant, Westar Marine  
Services and Cross Link, Inc.

By   
Neil E. Olson

COX, WOOTTON,  
GRIFFIN, HANSEN  
& POULOS, LLP

1001 CALIFORNIA STREET, SUITE 1000  
SAN FRANCISCO, CA 94108

TEL: (415) 774-1000  
FAX: (415) 774-1001

Wootton - 415-774-1001

## ORDER

Pursuant to the stipulation of the parties and good cause appearing thereon,

The Court HEREBY ORDERS the following:

- (1) Plaintiff may file his Proposed Second Amended Complaint filed herewith.
- (2) Tutor-Saliba/Koch/Tidewater JV will file its answer within twenty (20) days of the signing of the following proposed order and the filing of the Second Amended Complaint. The Answer previously filed by Westar on July 31, 2006 will be deemed an answer to the Second Amended Complaint (all allegations as to Westar remaining unchanged)."
- (3) The Plaintiff, at his sole discretion, will be entitled to further amend the Complaint naming Tutor-Saliba Corporation, Koch Skanska, Inc., and Tidewater Construction Corporation as defendants should he conclude in good faith that the evidence warrants his including said individual members as a party to the action. Any such amendment shall be made, filed and served at least thirty-five (35) days prior to the close of discovery as set by the Court, may be personally served on defense counsel and will require a responsive pleading to be filed by the individual members within two weeks of said service.
- (4) A continuance of the following preliminary dates relating to: a) **ADR certification** currently scheduled to be completed by October 2, 2006; b) **Initial disclosure** currently scheduled to be completed by October 16, 2006; and c) the **Case Management Conference** currently scheduled for October 23, 2006 be continued by twenty one (21) days. The Court orders the following preliminary dates:

**ADR certification:** To be completed by October 23, 2006

**Initial disclosure:** To be completed by November 6, 2006

CMC:

November 13, 2006, 4:00 p.m., Courtroom 15, 18<sup>th</sup>  
Floor, 450 Golden Gate Ave., San Francisco, CA.

Dated: October 4, 2006



COX, WOOTTON,  
GRIFFIN, HANSEN  
& POULOS, LLP

190 THE EMBARCADERO  
SAN FRANCISCO, CA  
94105  
TEL 415-438-4600  
FAX 415-438-4601

BMU Goldworthy/2416